

**ENTERED**

January 18, 2019

David J. Bradley, Clerk

Rusted Rock Barn LLC,

Plaintiff,

*versus*Russell Tisdale Construction LLC, *et al.*,

Defendants.

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Civil Action H-18-3889

### Opinion Denying Equitable Relief

Rusted Rock Barn LLC watched Russell Tisdale Construction LLC, Saddle Creek Weddings LLC, Rex Grey, and Brad Schreiber build the Saddle Creek venue for at least eight months before moving for an injunction. Rusted Rock knew what the result would be when it saw the architectural rendering. It should have moved as soon as it learned of the architectural rendering and had some apprehension that construction would start.

Rusted Rock's likelihood of success is small because of manifest differences between the four buildings. Some of these are: (a) Saddle Creek's buildings have awnings, (b) Saddle Creek's hall does not have stone on the wings of its facade, (c) Saddle Creek's hall has substantially fewer front doors which are also of a different style, and (d) Saddle Creek's hall does not have barn doors to cover the functional doors.

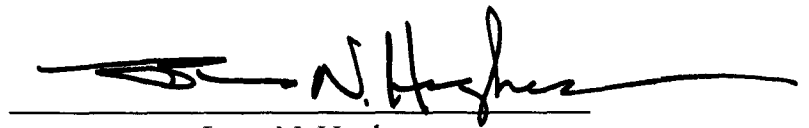
Ryan Aikin first testified that he had no plans or help, that he built it day-by-day as his vision developed. Then, he acknowledged one drawing that he filed with the trademark office. Once he acknowledged the drawing, he said he drew it on a computer – but he did not. The drawing was done by a consultant, whose title block was eliminated by his cutting three and one-half inches from the right side and one and one-half inches from the left.

Saddle Creek's opening will cause Rusted Rock no immediate damage. Rusted Rock is fully booked for this year. Saddle Creek is just beginning its business. If Rusted Rock can prove damages, a money judgment will adequately compensate it.

Saddle Creek's buildings are in Dripping Springs, about 200 miles west of Conroe. Saddle Creek is in the hills of an eroded limestone escarpment. The nearest city is Austin. Rusted Rock is at the west margin of the East Texas pine forests. The nearest city is Houston. In addition to their barn-themed artificial rusticity and common elements – restrooms, bars, food service, offices – they share a common lack of originality in specific decorative elements or arrangements.

The petition for immediate temporary relief will be denied.

Signed on January 18, 2019, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lynn N. Hughes", written over a horizontal line.

Lynn N. Hughes  
United States District Judge